

shocked by Babbitt's mention of Ickes. He recalls that he immediately thought of the May 8 Patrick O'Connor letter to Ickes, but did not mention it at that time. Instead, he decided that he now had his last opportunity, "however minimal it might be,"<sup>459</sup> to try to persuade Babbitt, and he began hitting hard on the points that he felt should turn the decision around, consistent with his briefing materials on the merits of the application.

Eckstein testified that he proceeded to make his presentation, while Babbitt listened patiently. After about 15 minutes, when Eckstein had covered all his points, Babbitt stood up and made a comment to the effect that the meeting was over, or he had another meeting. Eckstein then decided to raise the issue of the Patrick O'Connor letter. He explained that there was a letter sent to Ickes in May by O'Connor that Eckstein "really found offensive,"<sup>460</sup> and that his clients had wanted to do something with it, but Eckstein had talked them out of it. Eckstein recalled that Babbitt made no comment to indicate that he was unfamiliar with this subject; in fact, Eckstein read Babbitt's body language and demeanor to indicate that he knew something of this matter.

Eckstein recalled that he then started addressing some of the points in the O'Connor letter that he found unfair or inaccurate. In response to the letter's assertion that Delaware North was associated with the application, Eckstein said that Havenick had nothing to do with Emprise, the predecessor to Delaware North that had been linked to organized crime, and which Babbitt's office had prosecuted while he was Attorney General of Arizona. Other than the Delaware North issue, Eckstein testified that he cannot recall exactly which of the points raised in O'Connor's

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<sup>459</sup>Eckstein G.J. Test. at 107.

<sup>460</sup>*Id.* at 109-10.